

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Tyrone Noel Nunn,

Case No.: 2:24-cv-01986-APG-EJY

Plaintiff

Order

v.

United States District Court, et al.,

Defendants

Plaintiff Tyrone Noel Nunn brings this civil-rights action under 42 U.S.C. § 1983. ECF No. 1-1. On October 31, 2024, the magistrate judge ordered Nunn to file a fully complete application to proceed *in forma pauperis* or pay the full \$405 filing fee on or before November 29, 2024. ECF No. 3. The magistrate judge warned Nunn that the action could be dismissed if he failed to file a fully complete application to proceed *in forma pauperis* with all three documents or pay the full \$405 filing fee for a civil action by that deadline. *Id.* at 2. That deadline expired and Nunn did not file a fully complete application to proceed *in forma pauperis*, pay the full \$405 filing fee, or otherwise respond.

I. Discussion

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court

1 order). In determining whether to dismiss an action on one of these grounds, I must consider: (1)
2 the public's interest in expeditious resolution of litigation; (2) the court's need to manage its
3 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
4 cases on their merits; and (5) the availability of less drastic alternatives. *See In re*
5 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*,
6 833 F.2d at 130).

7 The first two factors, the public's interest in expeditiously resolving this litigation and the
8 court's interest in managing its docket, weigh in favor of dismissal of Nunn's claims. The third
9 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption
10 of injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the
11 court or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The
12 fourth factor—the public policy favoring disposition of cases on their merits—is greatly
13 outweighed by the factors favoring dismissal.

14 The fifth factor requires me to consider whether less drastic alternatives can be used to
15 correct the party's failure that brought about the court's need to consider dismissal. *See Yourish*
16 *v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
17 alternatives *before* the party has disobeyed a court order does not satisfy this factor); *accord*
18 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002). Courts “need not exhaust every
19 sanction short of dismissal before finally dismissing a case, but must explore possible and
20 meaningful alternatives.” *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because
21 this action cannot realistically proceed until and unless Nunn either files a fully complete
22 application to proceed *in forma pauperis* or pays the \$405 filing fee for a civil action, the only
23 alternative is to enter a second order setting another deadline. But the reality of repeating an

1 ignored order is that it often only delays the inevitable and squanders the court's finite resources.
2 The circumstances here do not indicate that this case will be an exception: there is no hint that
3 Nunn needs additional time or evidence that he did not receive the court's order. Setting another
4 deadline is not a meaningful alternative given these circumstances. So the fifth factor favors
5 dismissal.

6 **II. Conclusion**

7 Having thoroughly considered these dismissal factors, I find that they weigh in favor of
8 dismissal. It is therefore ordered that this action is dismissed without prejudice based on Nunn's
9 failure to file a fully complete application to proceed *in forma pauperis* or pay the full \$405
10 filing fee in compliance with the magistrate judge's October 31, 2024, order. The Clerk of Court
11 is directed to enter judgment accordingly and close this case. No other documents may be filed
12 in this now-closed case. If Nunn wishes to pursue his claims, he must file a complaint in a new
13 case.

14 Dated: January 13, 2025



15
16 Andrew P. Gordon
Chief United States District Judge